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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,946	03/19/2004	Joseph A. Manico	87489NAB	8070

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EXAMINER
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PASIEWICZ, DANIEL M

ART UNIT	PAPER NUMBER
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2622

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04/26/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/804,946	<b>Applicant(s)</b> MANICO ET AL.	
	<b>Examiner</b> DANIEL M. PASIEWICZ	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-39 and 44-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-39 and 44-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 33-39 and 44-56 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 33-39, 44-51 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2004/0095474 A1 to Matsufune in view of U.S. Patent 6,292,219 to Fredlund et al.**

4. **Claims 33-39** are corresponding method claims to, and fully encompassed by, system claims 44-50 respectively. Thus, for the sake of brevity, Applicant is directed to the detailed rejection of claims 44-50 below, as claims 33-39 are rejected for similar rationale.

5. With respect to **claim 44 Matsufune** discloses, in Fig. 1-33, a system for forming a presentation comprising a set of image sequences (paragraph 64), the system comprising: a digital camera (1) operated by a camera operator (paragraph 68, 75 and 78); a control panel comprising a display (29) and an operator interface (27) (See Fig. 1 and paragraph 70-71); a control logic processor (11) communicatively connected to the

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digital camera (1) and the control panel (paragraph 76, 94 and 104); a data storage device system (16, 22, 23 and 24) communicatively connected to the control logic processor (11) and storing instructions configured to cause the control logic processor (11) to implement a method for forming a presentation comprising a set of image sequences (paragraph 84, 102 and 394-399; where a storage system is made up of several memories for storing various information; one of said memories in the system is used to store a control program to perform the functions of the camera), wherein the instructions comprise: (a) instructions for obtaining programmed instructions from the data storage device system, the programmed instructions for capturing members of the set of image sequences (paragraph 177 and 166; where a template is selected, these templates are stored in memory); (b) instructions for assembling an electronic storyboard, according to the programmed instructions, comprising a plan for the arrangement of said members of the set of image sequences made at least in part before their capture (paragraph 110, 117 and 164-237; where a template is created as described in paragraph 164-237, this is done prior to capturing the images); (c) instructions for prompting the camera operator to have the camera operator use the camera to capture individual members of said set of said image sequences by displaying operator instructions to the camera operator (Fig. 7-8 and paragraphs 248-251); (d) instructions for storing said set of said image sequences in the data storage device system (paragraph 96 and 267-268); (e) instructions for assembling the presentation using said set of said image sequences, including the individual members captured by the camera operator, according to said electronic storyboard (paragraph

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127-128); and (f) instructions for recording the presentation to the data storage device system (paragraph 117 and 163).

6. **Matsufune** also discloses the need (and goal of the invention) to provide complex video editing functions, which typically include special effects, in a simple manner (paragraph 16 and 21-22) and **Matsufune** discloses the capability to add effects via the control panel (paragraph 71). **Matsufune** does not expressly disclose examples of added effect. More specifically, wherein the instructions for assembling include instructions for adding pre-stored images to at least some of the individual members captured by the camera operator, and wherein the pre-stored images are stored in the data storage device before the camera operator captures the individual members.

7. In analogous art, **Fredlund** teaches, in Fig. 1-9, a system for forming video images wherein pre-stored images are applied to at least some video captured by the camera operator and wherein the pre-stored images are stored in the data storage device of the system before the camera operator captures the individual members (abstract, column 2 line 62 through column 3 line 5 and column 3 lines 19-27 and 41-49). Therefore, **Fredlund** teaches wherein the instructions for assembling include instructions for adding pre-stored images to at least some of the individual members captured by the camera operator, and wherein the pre-stored images are stored in the data storage device before the camera operator captures the individual members.

8. At the time the invention was made it would have been obvious to one of ordinary skill in the art to have combined the special effects addition of Fredlund with the

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presentation generation of Matsufune as both as drawn towards the same goal of providing professional video editing functionality in a simple manner to a novice user (paragraph 21-22 of Matsufune and column 1 lines 58-61) and Matsufune is void of any specific examples of how it adds the disclosed user added effects (paragraph 71), thus, one of ordinary skill would be inclined to search out arts such as Fredlund which has the common goal of Matsufune.

9. With respect to **claim 45 Matsufune** discloses, in Fig. 1-33, a system according to claim 44 wherein the instructions for obtaining programmed instructions comprises instructions for reading a magnetic medium (paragraph 382).

10. With respect to **claim 46 Matsufune** discloses, in Fig. 1-33, a system according to claim 44 wherein the instructions for obtaining programmed instructions comprises instructions for reading an optical medium (paragraph 121).

11. With respect to **claim 47 Matsufune** discloses, in Fig. 1-33, a system according to claim 44 wherein the instructions for obtaining programmed instructions comprises instructions for communicating over a network (paragraph 99, 380 and 399).

12. With respect to **claim 48 Matsufune** discloses, in Fig. 1-33, a system according to claim 44 wherein the instructions for assembling an electronic storyboard comprise instructions for obtaining operator responses to prompts (paragraph 118 and 126).

13. With respect to **claim 49 Matsufune** discloses, in Fig. 1-33, a system according to claim 44 wherein the instructions further comprise instructions for obtaining stored images for use in the presentation (paragraph 127).

14. With respect to **claim 50 Matsufune** discloses, in Fig. 1-33, a system according to claim 44 wherein the instructions for assembling the presentation comprise instructions for: (a) loading into the data storage device system at least one pre-stored image not obtained from the camera (paragraph 98-100 and 180); and (b) using said at least one pre-stored image as part of the presentation (paragraph 163, 172; where pre-stored images such as #1, #3 and #5 are used in the presentation).

15. **Claims 51** is a corresponding method claims to, and fully encompassed by, system claim 54. Thus, for the sake of brevity, Applicant is directed to the detailed rejection of claim 54 below, as claims 51 is rejected for similar rationale.

16. With respect to **claim 54 Fredlund** teaches wherein the added pre-stored images include text graphics related to subject-matter represented by the corresponding individual member into which the text graphics are added (column 1 lines 33-50). At the time the invention was made it would have been obvious to add text graphics corresponding to persons in the photo, such as a birthday message, for doing so was an analogous known technique for providing special effects at the time of Fredlund.

**17. Claims 52, 53, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2004/0095474 A1 to Matsufune in view of U.S. Patent 6,292,219 to Fredlund et al in further view of U.S. Patent 5,914,748 to Parulski et al.**

18. **Claims 52 and 55** are encompassed by more details claims 53 and 56 and are therefore rejected for the same reasons as claims 53 and 56 below.

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19. With respect to **claims 53 and 56 Matsufune in view of Fredlund** teach the limitations of claims 33 and 44.

20. **Matsufune in view of Fredlund** does not expressly disclose a method and system, wherein a particular one of the individual members captured by the camera operator represents a background of another of the individual members, but without a subject of the other of the individual members, wherein the added pre-stored images include a pre-stored background image, wherein the instructions for assembling include instructions for replacing the background of the other of the individual members with the pre-stored background image, while retaining the subject of the other of the individual members, and wherein the replacing is performed by comparing the background represented by the particular individual member and the background of the other of the individual members.

21. In analogous art, **Parulski** teaches, in Fig. 1, an imaging system for capturing images (abstract) wherein a particular one of the individual members captured by the camera operator represents a background of another of the individual members, but without a subject of the other of the individual members (step 16 and 20, column 2 lines 34-37), wherein the added pre-stored images include a pre-stored background image (28) (column 2 lines 41-42), wherein the instructions for assembling include instructions for replacing the background of the other of the individual members with the pre-stored background image, while retaining the subject of the other of the individual members (step 30 and 26, column 2 lines 39-45), and wherein the replacing is performed by comparing the background represented by the particular individual member and the



background of the other of the individual members (step 24, column 2 lines 32-34 and 37-39). Therefore, **Parulski** teaches a method and system, wherein a particular one of the individual members captured by the camera operator represents a background of another of the individual members, but without a subject of the other of the individual members, wherein the added pre-stored images include a pre-stored background image, wherein the instructions for assembling include instructions for replacing the background of the other of the individual members with the pre-stored background image, while retaining the subject of the other of the individual members, and wherein the replacing is performed by comparing the background represented by the particular individual member and the background of the other of the individual members.

22. As stated in **Parulski** (column 1 lines 21-23 and 31-35) at the time the invention was made it would have been obvious to one of ordinary skill in the art to have included the special effects of **Parulski** for creating composition images in the method and system of Matsufune in view of Fredlund, for doing so would provide a means for extraction of people/objects of interest which is easily accomplished by inexperienced users without requiring a special colored background, which reduces the cost and lighting required from previous systems.

### ***Conclusion***

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL M. PASIEWICZ whose telephone number is (571)272-5516. The examiner can normally be reached on M-F 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571)272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sinh Tran/  
Supervisory Patent Examiner, Art  
Unit 2622

DMP  
April 20, 2010